

The opinion in support of the decision being entered today is *not* binding
precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YASUAKI YAMAGISHI, YOSHIHISA GONNO, FUMIHIKO
NISHIO, KAZUHIKO TAKABAYASHI, and KAZUO HARAOKA

Appeal 2007-1201
Application 09/605,461
Technology Center 2100

Decided: August 10, 2007

Before LEE E. BARRETT, MAHSHID D. SAADAT, and JAY P. LUCAS,
Administrative Patent Judges.

SAADAT, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of
claims 1-10, which are all of the claims pending in this application. We
have jurisdiction under 35 U.S.C. § 6(b).

Appellants invented a method and system for delivering hierarchical data distributed on a network which enables the recipient side user to efficiently correspond to the dynamic change of the hierarchical structure (Specification 5). The hierarchical structure for the contents data distributed on the network is further described as having a tree-shape structure (Specification 18) with different entries such as root, container and leaf entries (Specification 21). A container entry can contain an entry in the immediately lower hierarchical level of a root entry whereas entries other than root entry and container entry are called a leaf entry which cannot contain an entry (*id.*).

Claim 1, which is representative of the claims on appeal, reads as follows:

1. A transmitting apparatus for transmitting a hierarchical structure of a directory of hierarchically managing locations of contents data, comprising:

managing means for managing a hierarchical structure of a directory comprising a plurality of nodes, wherein each of said nodes is at a hierarchical level and comprises a container entry or a leaf entry, each of said container entries including information of nodes at lower hierarchical levels thereof, each leaf entry being located directly below one of the container entries, each leaf entry not including information of nodes at lower hierarchical levels thereof;

detecting means for detecting a change of the hierarchical structure of the directory managed by said managing means, detecting a change tracking value of said hierarchical structure on the basis of the detected change, and obtaining first difference information and second difference information, the first difference information corresponding to the change of the hierarchical structure of container entries, the second difference information corresponding to the change of the hierarchical structure of leaf entries;

generating means for generating first message and second message, the first message including said first difference information and a mask schema for interpreting a filtering mask, the second message including said second difference information and the filtering mask, wherein the filtering mask corresponds to information of one of the leaf entries being directly under one of the container entries; and

transmitting means for separately transmitting said first message and said second message.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Greer	US 5,978,828	Nov. 2, 1999
Saether	US 6,405,219 B2	Jun. 11, 2002 (filed Sep. 24, 1999)

The Examiner rejected claims 1-10 under 35 U.S.C. § 103(a) based upon the teachings of Saether and Greer.

We reverse.

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103. Appellants do not dispute the teachings of Saether with respect to container and leaf entries and contend that the elements included in a change control record disclosed by Greer cannot be characterized as the claimed first and second messages including the first and the second difference information associated with the container entries and the leaf entries (Br. 19-20). Appellants further argue that there is nothing in Greer to indicate that such first and second messages are transmitted separately (Br. 20). The issue turns on whether there is a legally

sufficient justification for combining the disclosures of Saether and Greer and if so, whether the combination teaches the claimed subject matter. Specifically, the issue is whether the URL field and the global quotient value disclosed by Greer correspond to the claimed mask schema and the filtering mask and whether, along with the date and time of the last modified page and object quotient filed as the first and second difference information, form the claimed first and second messages which are transmitted separately.

FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issue involved in the appeal and are believed to be supported by a preponderance of the evidence.

1. Saether relates to a method and system for managing the replication and version synchronization of updates to a set of source files on a distributed system (Abstract; col. 4, ll. 28-34). Saether describes the file directory structure for a first version of the source files as a hierarchy of root files, levels below the root directory, and below the sub-directories (col. 10, ll. 39-45).

2. Greer also relates to notification of a content change (Abstract) wherein organization of a Web page is shown in Figure 3 as having different types of objects displayed or embedded therein and defined and summarized by a corresponding change control record (col. 3, ll. 24-39).

3. The change control record is further shown in Figure 4 and includes a plurality of fields corresponding to the changes made to the Web page of Figure 3 (col. 3, ll. 40-49). One of the fields is disclosed as the URL

field 304 which indicates the new address of the Web page if it has changed while the global quotient field 306 includes a value specifying the magnitude of change of the overall Web page after the last update (col. 3, ll. 49-55). The update field 308 indicates the date and time of the most recent update of the Web page (col. 3, ll. 56-57).

4. The quotient page 500 in Figure 7 encompasses the updated notification of Web page by providing information from the fields corresponding to each object field from the Web page of Figure 3 (col. 6, ll. 7-13). The quotient page includes an optional URL 502 indicating the new address of the Web page if it has changed, a revision field 504, and a global quotient field 506 with identifiers followed by a quotient value, and the date and time of the last modification (col. 6, ll. 14-20).

PRINCIPLE OF LAW

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), *In re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In identifying a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art teachings, the Examiner must show some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007).

ANALYSIS

Initially, we note that the teachings of Saether with respect to transmitting and receiving changes to a hierarchical structure remain undisputed by Appellants (Br. 18). Appellants contend that the limitations directed to the details of the first and second messages and transmitting them separately are missing in Greer (*id.*).

Appellants are correct to assert (Br. 20) that the Examiner's characterization of the URL as the indicator of the changes in the page content (Answer 10-11) is incorrect since the URL specifies only whether the page address has changed and has nothing to do with the content or the changes made to the objects within the web page (FF 3-4). Therefore, as argued by Appellants (Br. 20), the optional URL field in Greer cannot be information related to a leaf entry positioned directly under a container entry (FF 4) as the changes to the content are reflected in the quotient values and fields.

We also disagree with the Examiner (Answer 11) that the optional URL is the same as a filter mask and corresponds to information of one of the leaf entries since the URL does not correspond to the changes made to the content of that page and actually does nothing more than reflect the new address for the Web page. The Examiner's characterization of the optional URL field containing a quotient page as the claimed filtering mask and the global quotient value as the claimed mask schema (Answer 11-12) is also inconsistent with the teachings of Greer in that the URL field 304 does not contain a quotient page with a URL. In fact, as argued by Appellants (Br. 20), the global quotient value of Greer does not interpret the URL field and

instead they both are values in the quotient page 500 (FF 4). The quotient values correspond to the change in content while the URL indicates the change to the web address, if there has been any change. Additionally, the optional URL is merely included in the quotient page to indicate address change and not as a filtering mask related to the information of one of the leaf entries (FF 4) and thus, cannot be interpreted by the mask schema or the global quotient value, as asserted by the Examiner.

Additionally, we agree with Appellants (Br. 20) that the Examiner's position with respect to Greer does not indicate how the first and the second messages are transmitted separately. Therefore, we disagree with the Examiner's argument (Answer 11) that transmitting the messages "separately" is not recited in the claims and find that the claims, although not specifying how the messages are transmitted, require that they be transmitted *separately*.

CONCLUSION OF LAW

Obviousness has not been established by the Examiner because the combination of the applied references fails to teach all the recited limitations of the claims. Therefore, we cannot sustain the 35 U.S.C. § 103 rejection of claims 1-10 over Saether and Greer.

Appeal 2007-1201
Application 09/605,461

DECISION

The decision of the Examiner rejecting claims 1-10 is reversed.

REVERSED

rwk

SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080